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FACSIMILE TRANSMISSION COVER SHEET

DATE: February 13, 2009

TO: CA Uniform Construction Cost Accounting Commission
Attn: Jeanette Consentino

FAX NUMBER: (916) 327-3162

NUMBER OF PAGES: 20
(Including this page)

COMMENTS: Re: Construction Industry Force Account Council
City of Lindsay Library Project

FROM: Julia Lew

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February 13, 2009

VIA FAX: (916) 327-3162 and U.S. MAIL

California Uniform Construction Cost Accounting Commission
Attention: Jeanette Consentino, Fiscal Analyst, State Controller's Office
Office of State Controller
P.O. Box 942850
Sacramento, California 94250

**Re: Construction Industry Force Account Council (CIFAC) complaint re:
City of Lindsay Library Project**

For Commission Meeting on February 18, 2009

Dear Commissioners:

I am the City Attorney for the City of Lindsay, and the City has requested that I respond concerning the City's opinion that its Charter, and not the Uniform Cost Accounting Act, governs its public contracting procedures.

Until 1996, the City of Lindsay was a "general law" city. On April 17, 1995, the City elected to become subject to cost accounting procedures set forth in the Act via its Resolution No. 95-20 (a copy of which is attached hereto). However, on January 8, 1996, the City Council approved the final draft of the Proposed Charter of the City of Lindsay. The Charter was approved by the voters of the City of Lindsay at a Special Election on April 9, 1996. The Charter is essentially the City's "constitution."

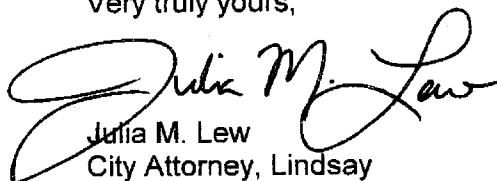
The Charter provisions clearly supersede any public contracting procedures utilized prior to its adoption, including the election of the uniform cost accounting procedures opted into by the City in 1995. Section 8.11 explicitly provides that the City shall establish its purchasing and contracting system by ordinance, that said regulations shall establish an informal bidding limit of \$74,999 and a formal bidding limit for projects involving expenditures of \$75,000 or more, that said limits shall be adjusted annually by consumer price indices, and that the regulations shall set forth a procedure for determining which projects can be performed by City forces versus via contract (see Section 8.11.J). In September 1996, the City Council adopted detailed purchasing and contracting procedures (Ordinance No. 482). With regard to public works by City forces, Section 3.04.200 provides that the City Manager may determine which public works projects may be performed by City forces, or what portions of any public works project which is to be bid are to be performed by City forces.

The adoption of the Charter in 1996 (and subsequent adoption of Ordinance No. 482) effected an opting out by the City of the voluntary State cost accounting program, because the City could not legally follow the State procedures without violating its own Charter. Therefore, there has been no attempt by the City to follow a program that it no longer views itself a part of.

California Uniform Construction Cost Accounting Commission
February 13, 2009
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In addition to Resolution 95-20, I have attached Section 8.11 of the City's Charter and Ordinance No. 482 for your reference. Please don't hesitate to contact me if you have any comments or questions. Thank you.

Very truly yours,



Julia M. Lew
City Attorney, Lindsay

cc: Scot Townsend, City Manager
Kenny Walker, City Clerk
Mike Camarena, City Services Director

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RESOLUTION NO. 95-20
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LINDSAY
ADOPTING UNIFORM PUBLIC CONSTRUCTION COST
ACCOUNTING PROCEDURES.

At a regularly scheduled meeting of the City Council of the City of Lindsay, held on the 17th day of April, 1995, at the hour of 7:00 p.m. of said day, in the Council Chambers at City Hall, 251 East Honolulu, Lindsay, California 93247, upon motion of Councilperson HILL, second of Councilperson STAVA, the following resolution was adopted:

THAT WHEREAS, prior to the passage of Assembly Bill No. 1666, Chapter 1054 Stats. 1983, which added Chapter 2 commencing with Section 22000 to Part 3 of Division 2 of the Public Contract Code, existing law did not provide a uniform cost accounting standard for construction work performed or contracted by local public agencies; and

WHEREAS, Public Contract Code Section 22000 et seq., the Uniform Public Construction Cost Accounting Act, establishes such a Uniform Cost Accounting Standard; and

WHEREAS, the Commission established under the Act has developed uniform public construction cost accounting procedures for implementation by local public agencies in the performance of or in the contracting for construction of public projects;

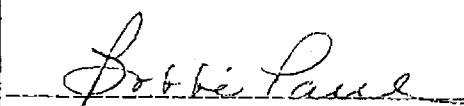
NOW, THEREFORE, BE IT RESOLVED that the City Council the City of Lindsay hereby elects, under Public Contract Code Section 22030, to become subject to the uniform public construction cost accounting procedures set forth in the Act and to the Commission's policies and procedures manual and cost accounting review procedures, as they may each from time-to-time be amended, and directs that the City Clerk notify the State Controller of this election.

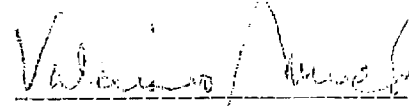
PASSED AND ADOPTED by the City Council of the City of Lindsay this 17th day of April, 1995, by the following vote:

AYES:	HENDRICKS, RIOS, HILL, STAVA, SAUCEDO.
NOES:	NONE.
ABSENT:	NONE.
ABSTAIN:	NONE.

ATTEST:

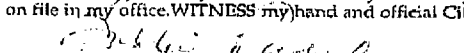
CITY COUNCIL OF THE CITY OF LINDSAY


Bobbi Paul, City Clerk


Valeriano Saucedo, Mayor

CITY CLERK CERTIFICATION

I, Bobbi Paul, City Clerk of the City of Lindsay do hereby certify that the foregoing is a full, true and correct copy of the original resolution made and entered into by the City Council of the City of Lindsay at a regular meeting duly called and held on April 17, 1995, as the same appears of record and on file in my office. WITNESS my hand and official City Seal of Lindsay.


Bobbi Paul, City Clerk

Date: April 18, 1995

CHARTER OF THE CITY OF LINDSAY

January 8, 1996

Sections:

ARTICLE I NAME, BOUNDARIES AND FORM OF GOVERNMENT

- 1.01 Name.
- 1.02 Boundaries.
- 1.03 Form of Government.

ARTICLE II POWERS, DUTIES AND OBLIGATIONS OF THE CITY

- 2.01 Powers of the City.
- 2.02 General Law Powers.
- 2.03 Municipal Affairs.
- 2.04 Intergovernmental Powers.
- 2.05 Liberal Interpretation.
- 2.06 Duties and Obligations of the City Council.

ARTICLE III MAYOR AND CITY COUNCIL

- 3.01 City Council.
- 3.02 Judge of Qualifications.
- 3.03 Vacancies and Forfeiture of Office.
- 3.04 Filling of Council Vacancies.
- 3.05 Compensation and Expenses.
- 3.06 Powers and Duties of the City Council.
- 3.07 Council Procedure.
- 3.08 Actions Requiring an Ordinance.
- 3.09 Ordinances in General.
- 3.10 Emergency Ordinances.
- 3.11 Ordinance Authentication, Recording and Codes.
- 3.12 Mayor.
- 3.13 Mayor Pro Tem.
- 3.14 Prohibitions on City Council.
- 3.15 Independent Audit.

ARTICLE IV CITY MANAGER

- 4.01 City Manager Appointment.
- 4.02 Acting City Manager.
- 4.03 Powers and Duties of City Manager.

ARTICLE V CITY CLERK

- 5.01 Office of City Clerk.
- 5.02 Duties of City Clerk.

ARTICLE VI CITY ATTORNEY

- 6.01 Office of City Attorney.
- 6.02 Duties of City Attorney.
- 6.03 Special Counsel.

ARTICLE VII DEPARTMENTS, AGENCIES AND EMPLOYEES

- 7.01 Departments.
- 7.02 Department Heads.
- 7.03 Personnel System.
- 7.04 Boards, Commissions and Committees.

ARTICLE VIII FINANCIAL PROCEDURES

- 8.01 Financial Systems.
- 8.02 Submission of Budget and Budget Message.
- 8.03 Annual Budget.
- 8.04 City Council Review of Budget.
- 8.05 Adoption of Budget.
- 8.06 Budget Amendments After Adoption.
- 8.07 Overexpenditures Prohibited.
- 8.08 Lapse of Appropriations.
- 8.09 Capital Program and Budget.
- 8.10 Public Documents.
- 8.11 Purchasing and Contracting.
- 8.12 Miscellaneous Fiscal Procedures.

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**ARTICLE IX
TAXATION, REVENUES AND DEBT**

- 9.01 Property Taxation.
- 9.02 Tax Limit.
- 9.03 Balanced Revenue System.
- 9.04 Annual Review of Rates & Fees.
- 9.05 Debt.
- 9.06 Depositories and Investments.

**ARTICLE X
ELECTIONS**

- 10.01 Election Procedures.
- 10.02 Special Elections.
- 10.03 Initiative, Referendum and Recall.

**ARTICLE XI
GENERAL PROVISIONS**

- 11.01 Conflicts of Interest.
- 11.02 Franchises.
- 11.03 Violations.
- 11.04 Definitions.

**ARTICLE XII
CHARTER AMENDMENT**

- 12.01 Charter Amendment.
- 12.02 How Amended.
- 12.03 Amendment Election.

**ARTICLE XIII
TRANSITION AND SEVERABILITY**

- 13.01 Transition.
- 13.02 Severability.
- 13.03 Transition of Current Elected Officials.
- 13.04 Continuity of Laws, Officers and Employees.

**CHARTER OF THE
CITY OF LINDSAY, CALIFORNIA
January 8, 1996**

Vision Statement:

The citizens of the City of Lindsay do enact this Charter to form a better City government for all citizens of the City, to provide for the public health, safety, welfare and morals of its residents, property owners and businesses, and to preserve and to enhance the quality of life for ourselves, our families, our neighbors, and our businesses, for now and the future.

ARTICLE I

**NAME, BOUNDARIES AND FORM OF
GOVERNMENT**

Section 1.01 Name.

The municipal corporation now existing and known as the City of Lindsay shall remain and continue to exist as a municipal corporation under the name "City of Lindsay", but as a California Constitution Home Rule Charter City.

Section 1.02 Boundaries.

The boundaries of the City of Lindsay shall be as now established, and may be changed in the future as provided by law, by this Charter, or by ordinance.

Section 1.03 Form of Government.

The organizational form of government under which the City of Lindsay shall operate shall be that which is commonly known as "The Council-Manager Plan".

ARTICLE II

**POWERS, DUTIES AND OBLIGATIONS OF
THE CITY**

Section 2.01 Powers of the City.

The City shall have all powers possible for a city to have under the Constitution and laws of the United

CHARTER

B. **Payment Restrictions.** No payment shall be made or obligation incurred against any appropriation except in accordance with appropriations duly made by the Council and unless the City Manager or his/her designee first certifies that there is a sufficient unencumbered balance in such appropriation and that sufficient monies therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable.

C. **Illegal Payment.** Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal.

D. **Securities Exception.** Nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or in part by the issuance of municipal securities, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year provided such contract or lease is not explicitly prohibited by the provisions of the California Constitution.

E. **Constitutional Limitation.** The status of the City budget and finances shall in all respects at all times be in compliance with California Constitution Article XVI, Section 18.

Section 8.08 Lapse of Appropriations.

A. **When Lapse.** Every appropriation, except as provided for herein, shall lapse at the end of the fiscal year to the extent that it has not been expended or encumbered.

B. **Capital Outlay Appropriations.** All appropriations for capital outlay items shall continue in force until expended, revised or repealed. The purpose of any such capital outlay appropriation shall be deemed abandoned after three years pass without disbursement from or encumbrance against the appropriation.

C. **Other Exemptions.** Appropriations involving trust and agency accounts and reserves shall not lapse until specifically provided either by the annual budget or separate resolution.

Section 8.09 Capital Program and Budget.

A. **Five Year Program.** The City Manager annually shall prepare and submit to the City Council a five year Capital Program, which Program shall be submitted as a separate part of but be considered by the Council concurrent with the Annual Budget.

B. **Program Contents.** The Capital Program shall include but not be limited to the following:

1. A general summary of its contents;
2. A list of all capital improvements and other capital expenditures which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for each improvement or proposed expenditure;
3. Cost estimates and recommended time schedules for each improvement or other capital expenditure;
4. Method of financing for each improvement or other capital expenditure; and,
5. The estimated annual cost of operating and maintaining the facilities or equipment to be constructed or acquired.

C. **Capital Program Adoption.** The Capital Program shall be a part of and adopted as part of the Annual Budget.

Section 8.10 Public Documents.

Copies of the annual budget and message, the annual audit, the annual financial report if it be a separate document, and all appropriate summarizing documents shall be filed with the City Clerk as permanent public records, and shall be made available to the public for inspection and review.

Section 8.11 Purchasing and Contracting.

A. **By Ordinance.** The Council by ordinance shall provide for a purchasing and contracting system assuring a maximum of competition for the lowest price consistent with a stated level of quality.

B. **The Basic System.** The Purchasing and Contracting Ordinance shall provide for and comply with all provisions of this Section and of this Charter, but not be limited to:

1. Control of the system by the City Manager, who shall be empowered to make purchases and to

CHARTER

award contracts for amounts of \$25,000 or less, annually adjusted in amount as set out herein;

2. Delegation of responsibility by the City Manager to any appointed subordinate;

3. A requirement that should contracts or purchases in amount of \$25,000 or less be awarded to any one vendor or contractor cumulatively totalling \$75,000 in any three year period then, in that event, the competitive process set out herein shall be followed prior to the award of subsequent contracts to such vendor or contractor, should such process otherwise be required;

4. An informal bid solicitation process for purchases and contracts in amount between \$25,001 and \$74,999, which amounts shall be adjusted annually in amount as set out herein;

5. The acquisition of the services of professional service providers in such a manner that specialized abilities and knowledge shall be considered in addition to quality and price and, if appropriate as determined by the City Manager, without the competitive processes set out herein;

6. Additional procedures and requirements to fulfill the provisions of this Section and this Charter; and,

7. Such other matters as shall be determined to be required by the City Council.

C. Award of Contracts and Purchases. Award of contracts and purchases shall be made to the lowest responsible bidder or vendor meeting specifications, except as provided herein and in the Purchasing and Contracting Ordinance.

D. Sealed Competitive Bids. Sealed bids for competitive purchases involving the expenditure of \$75,000 or more shall be secured, but this amount and all dollar amounts set out in this Section shall be revised by the Council annually as part of the annual budget by a revision factor determined by utilizing published reliable indicators or indices of price changes.

E. Waiver of Bids. Waiver of competitive bidding for purchase of non-competitive items and contracting for services is permitted in emergencies, for copyrighted and patented items and services, and for professional or specialized services for which a writ-

ten finding is filed with the City Clerk regarding the reason for such non-competitive, emergency or sole source acquisition.

F. Prohibitions. Splitting contracts or purchases to avoid dollar limits is prohibited.

G. Rejections. The City Council may reject any and all bids for any good or service.

H. Bid Bonds. A bid bond or cashiers check shall be required for all sealed bids.

I. Public Notification. The City Manager shall cause full public notification of all calls for sealed bids by providing ten days notice through publications appropriate to the subject of the call for bids.

J. Public Works Determination. The Purchasing and Contracting Ordinance shall set out a procedure for determination of which public works or improvement projects are to be performed by City forces and which are to be let to contract.

K. Bidding and Wages. The City Council may by ordinance or resolution adopt prevailing wage, geographic boundaries and other guidelines and restrictions, including local bidding preference, governing public works and other City contracts.

Section 8.12 Miscellaneous Fiscal Procedures.

A. By Ordinance. The City Council by ordinance shall provide for the following, and other appropriate and necessary fiscal and financial procedures, which procedures shall comply with State law unless the ordinance specifies otherwise:

B. Petty Cash. The creation, administration and control of petty cash accounts;

C. Claims and Demands. The receipt and disposition of claims and demands against the City;

D. Warrants and Checks. Issuance and redemption of warrants, if any, and checks drawn on the City treasury, and;

E. Actions. Legal actions against the City.

Jan 29 09 03:42p

City of Lindsay

559-562-7100

p. 1

(12)

Atty: Julia

ORDINANCE NO. 482

AN ORDINANCE OF THE CITY OF LINDSAY, REPEALING TITLE 3, CHAPTER 3.04.010 TO 3.04.170, INCLUSIVE, OF THE LINDSAY MUNICIPAL CODE, AND ENACTING AND ADDING A NEW TITLE 3, CHAPTER 3.04 CONSISTING OF SECTIONS 3.04.010 TO SECTIONS 3.04.260, INCLUSIVE, TO THE LINDSAY MUNICIPAL CODE AS THE SAME RELATES TO PURCHASING AND CONTRACTING.

WHEREAS, April 17, 1996 the City of Lindsay officially became a Charter City; and

WHEREAS, certain provisions of the Charter of the City of Lindsay either conflict with or are not fully covered in the ordinances of the City of Lindsay as the same pertains to the City Purchasing and Contracting System; and

WHEREAS, it is necessary and desirable to make the Lindsay Municipal Code conform with the Lindsay City Charter; and

WHEREAS, it is the purpose of this ordinance to establish, clarify and modify the purchasing and contracting system created by the City Charter, Lindsay Municipal Code, or this ordinance; and

WHEREAS, the City Council wishes to deviate from State General Law so as to secure cost savings and to effect procedural economies;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LINDSAY DOES ORDAIN as follows:

ARTICLE I. This ordinance may be referred to as "The Purchasing and Contracting Ordinance".

ARTICLE II. Title 3, Chapter 3.04, consisting of Sections 3.04.010 through 3.04.170 of the Lindsay Municipal Code is hereby repealed.

ARTICLE III. A new Title 3, Chapter 3.04, consisting of Sections 3.04.010 through 3.04.260 are hereby added to the Lindsay Municipal Code, and shall provide as follows:

TITLE III
CHAPTER 3.04

Sections

3.04.010	Authority.
3.04.020	Limitation.
3.04.030	Purchasing Officer Duties.
3.04.040	Purchasing Procedures Generally.
3.04.050	Specifications.
3.04.060	Annual Adjustment of Limits.
3.04.070	Informal Purchases Procedure.
3.04.080	Informal Bid Procedure.
3.04.090	Formal bid Procedure.
3.04.100	Professional and Specialized Services.
3.04.110	Federal Grant Requirements.
3.04.120	Receipt of Goods and Services.
3.04.130	Cooperative Purchasing.
3.04.140	Emergency Procedures

Ordinance No. 482 (Purchasing & Contracting...)

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3.04.150	Local Preference.
3.04.160	Central Stores.
3.04.170	Purchase Orders.
3.04.180	Estimates of Requirements.
3.04.190	Inventory and Status Reports.
3.04.200	Public Works by City Forces.
3.04.210	Bid Wage Determinations.
3.04.220	Contract Bulk Purchases.
3.04.230	Electronic Purchase Procedure.
3.04.240	Security for Public Works Projects.
3.04.250	Changes in Procedures.
3.04.260	Definitions.

Section 3.04.010. Authority

The provisions of this chapter are adopted pursuant to Section 8.11 of the Lindsay City Charter.

- A. The City Manager shall have control of the City purchasing and contracting system, and may delegate such authority by written Executive Order as is permitted by this Code, resolutions, and rules and regulations promulgated in conformance therewith.
- B. The Finance Director is hereby designated as the Purchasing Officer and shall have such duties as set out herein.

Section 3.04.020. Limitation

Contracts and purchases made in accordance with Section 3.04.070 cumulatively totaling \$75,000, or more, in any three year period awarded to any one vendor or contractor are prohibited, such being evidence of "bid splitting", which practice is prohibited.

- A. In such event vendor or contractor shall be required to comply with the competitive bidding process set out in this Code prior to being awarded a further contract or purchase order within the three year period.
- B. Splitting contracts or purchases to avoid dollar limits set out in this Chapter is prohibited.

Section 3.04.030. Purchasing Officer Duties

The Duties and responsibilities of the Purchasing Officer shall be to :

- A. Purchase or contract for all supplies, equipment and contractual personal services, excluding professional services, needed by all City departments or agencies which derive financial support wholly or in part from the City, in accordance with purchasing procedures as prescribed by this Chapter, relevant administrative regulations and such rules and regulations as the Purchasing Officer shall adopt and the City Manager approve;
- B. Negotiate and recommend execution of contracts for the purchase of supplies and equipment and for the contacting for services from the lowest responsible bidder;
- C. Act to procure for the City acceptable quality of supplies, equipment and services at the least expense to the City;

1 Ordinance No. 482 (Purchasing & Contracting.....)

Page 3 of 11

- 2 D. Discourage uniform bidding by purveyors and induce full competition on all
3 purchases and for all purchases and contracts;
- 4 E. Adopt administrative regulations, subject to prior approval of the City Manager,
5 including revisions and amendments thereto, governing the purchase of goods and
6 the contracting for services or supplies and equipment for the City;
- 7 F. Keep informed of current developments in the field of purchasing and contracting,
8 price, costs, market conditions, new products and new contractual situations
9 prevailing in the industries which might be supplying goods or services to the City;
- 10 G. Prescribe, design and issue forms needed for the operation of the procedures and
11 requirements set out in this Chapter, and such other applicable rules as may seem
12 necessary to fulfill the requirements of this Chapter;
- 13 H. Regulate the transfer of surplus property between departments as needed, or sell or
14 otherwise dispose of surplus property when designated as such by other department
15 heads or City Manager;
- 16 I. Maintain a bidders list, vendors and contractors catalog file, and such other records
17 as might be used in modern procurement;
- 18 J. Assure that every bidder complies with all applicable City, State and Federal
19 health, employee, safety and occupational laws and regulations;
- 20 K. Such other matters as shall be required to fulfill the requirements and procedures of
21 this Chapter, the City Charter and requirements of the City Council and the City
22 Manager.

23 Section 3.04.040. Purchasing Procedures Generally

24 Generally, the purchasing procedures of the City shall consist of the following:

- 25 A. Determination of requirements by the Purchasing Officer, in consultation with the
26 requesting department heads;
- 27 B. The negotiation of or processing of appropriate procurement actions;
- 28 C. Referral of bids to using departments or agencies for analysis and recommendation;
- D. Award of purchase order or contract to the lowest responsible bidder;
- E. Supervision of receipt and acceptance procedures;
- F. Approval of invoices for payment.

23 Section 3.04.050. Specifications.

24 As needed, the Purchasing Officer, in conjunction with using departments or agencies,
25 shall develop standard specifications for repetitively procured items and services.

- 26 A. Every specification shall be prepared to assure the broadest possible bidder
27 participation, consistent with the needs of the using agency.
- 28 B. Alternative specification provisions for any particular bid invitation may be
established with concurrence of the Purchasing Officer and the using department or
agency.

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1 Ordinance No. 482 (Purchasing & Contracting....)

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2 Section 3.04.060. Annual Adjustment of Limits

3 Annually, as part of the City Budget, City Staff shall provide data and the City
4 Council shall adopt new dollar limits affecting Sections of this Chapter in which
dollar limits are set out.

5 A. Such dollar limits for purchases of goods and supplies shall be adjusted by the same
6 percentage as the Municipal Price Index (MPS), as determined by City & County
Magazine, shall have changed during the prior calendar year, either upward or
downward.

7 B. Such dollar limits for construction and equipment purchases and contracts shall be
8 adjusted by the same percentage as the McGraw Hill Index of Construction Prices
shall have changed during the prior calendar year, either upward or downward.

9 Section 3.04.070. Informal Purchases Procedure

10 The City Manager may delegate in writing to the department heads, Purchasing
11 Officer or other City Officer as he shall determine, the authority to make purchased
and to contract for items and services involving less than \$25,000. Such delegated
12 authority shall be exercised as set out in this Section, and shall be subject to other
applicable provisions of this chapter.

13 A. Purchases under this Section shall be based whenever possible on competitive
quotations and award to the the lowest responsible bidder;

14 B. Either verbal or written quotations shall be received from prospective vendors or
15 contractors, and notations made thereof in every case involving any purchase or
contract of amount greater than \$5,000.

16 C. Verbal or written quotations shall be solicited and received from prospective
17 vendors or contractors and made a part of the file for each specific proposed
acquisition of goods or services involving expenditures of \$5,001 up to and including
\$25,000.

18 D. A written and signed statement of the City Officer or employee who made such
19 solicitation shall be included as a part of each purchase order issued under the
provisions of this Section, which statement shall swear under penalty of perjury
20 that the procedures set out in this Section were complied with and that the award
was made to the lowest responsible bidder;

21 E. Award of all contracts and purchases made pursuant to the procedures of this
22 Section shall be made to the lowest responsible bidder or vendor meeting
specifications, except as specifically otherwise authorized by this Chapter.

23 Section 3.04.080. Informal Bid Procedure

24 All purchases and contracts involving amounts between \$25,001 and \$74,999 shall be
purchased and contracted for only under the procedures set out in this Section.

25 A. Award of all contracts and purchases made pursuant to the procedures of this
26 Section shall be made to the lowest responsible bidder or vendor meeting
specifications, except as specifically otherwise authorized in this Chapter.

27 B. Written quotations shall be secured in all cases from at least three prospective and
28 qualified vendors or contractors, and such quotations shall be made a part of the
file of each purchase made or contract awarded under this Section. Such file shall
be maintained for three years after award of the contract or purchase order.

Ordinance No. 482 (Purchasing & Contracting....)

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Section 3.04.090. Formal Bid Procedure

The procedure set out in this Section shall be utilized for all purchases or contracts involving amounts of \$75,000 or more.

- A. Award of all contracts and purchases made pursuant to the procedures of this Section shall be made to the lowest responsible bidder meeting specifications, except as specifically otherwise authorized by this Chapter.
- B. Written specifications and plans, if appropriate, shall be prepared for all purchases proposed to be made and contracts proposed to be awarded under this Section. Such specifications and plans, together with the deadline for and place to file sealed bids with the City, and other requirements, shall be circulated to publications appropriate to the subject of the call for bids, posted at City Hall, and advertised in a legally adjudicated newspaper in geographic areas appropriate to reaching prospective bidders.
- C. Such notices and advertisements shall be designed to cause full public notification of all calls for sealed bids by providing at least ten days written notice to prospective bidders prior to the proposed deadline for the receipt of sealed bids.
- D. Sealed bids shall be accompanied by a bid bond or cashiers check in amount set forth by the City Manager, and failure to include such bid bond or cashiers check with any bid shall be disqualifying.
- E. Sealed bids shall be received and opened by the City Official designated by the bid call, at the place and time specified in said bid call.
- F. A written analysis shall be made of all sealed bids received under the procedures of this Section, and shall contain information relative to all bidders, including a recommendation by the affected department head and the City Manager as to which bidder is recommended to be the lowest responsible bidder.
- G. The City Council shall award, or may reject, all purchases or contracts developed under the procedures of this Section and proposed to be awarded pursuant to this Section.
- H. All bid calls shall contain a statement that the City Council may reject any and all bids for any goods or service, and may cancel any call for bids at any time in the process.
- I. At the option of the City Manager an alternate purchasing and contracting procedure may be followed for any specific purchase or construction contract bid process, which procedure would follow California Government Code Sections 54205, or appropriate Public Contract Code provisions, but without compliance with the dollar limits of said Government Code or Public Contract Code Sections. The use of such alternate procedure shall be solely discretionary by the City Council or City Manager, and generally will not be followed, merely being an optional procedure which might be utilized, if desired.

Section 3.04.100. Professional and Specialized Services

The acquisition of copyrighted and/or patented items and services for which there is no reasonable alternative which is of equal to or of better quality or nature shall be made by following the procedures set out in this Section.

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- A. The purchase order or contract award for such professional or specialized services or materials shall have a copy of a statement attached thereto by both the vendor or contractor and the City Manager stating the reasons and the specific copyright or patent circumstances which have given rise to the invoking of this exception to the competitive acquisition process set out in this Chapter.

The original of such statement shall be filed with the City Clerk.

- B. Professional or specialized services which involve a qualitative judgment in addition to qualitative and dollar amount shall be involved when the procedure set out in this Section is utilized.

- C. When this exception to the competitive purchasing and contracting procedures set out in this Chapter is utilized, a written finding shall be filed with the contract and the City Clerk regarding the reason for such non-competitive acquisition and, further, the process utilized in the selection of contractors to be interviewed, the interview process used, those firms contacted and interviewed, and the results of such interviews, cumulatively which shall have resulted in the decision to award the contract to which the contract was subsequently awarded.

- D. The criteria utilized for exception to the competitive process of this Chapter in paragraphs B and C of this Section:

1. Shall be a requirement for specialized abilities and knowledge in addition to quality and price,

2. Shall not be utilized without the prior written approval of the City Manager.

- E. Professional Services means work performed by specially trained and experienced persons, firms or corporations rendering professional services and advice such as accounting, auditing, financial advisory, securities underwriting, legal, medical, engineering, architectural, environmental, economic, real estate, insurance, appraisals, lobbying, public relations, ordinance codification and publication, or similar such highly specialized services.

Section 3.04.110. Federal Grant Requirements

All supplies, equipment, construction and services for federally-assisted grant or loan programs shall be procured in accordance with "Attachment O" of "OMB Circular No.A-102", contained in the "Standards Governing State and Local Grantee Procurement".

Section 3.04.120. Receipt of Goods and Services

The using department or agency shall inspect all goods and equipment, and

- A. Certify to the Finance Director that all goods and services received conform in quality and quantity with the specifications accompanying the purchase order for such goods and services.

- B. Before payment is authorized, satisfactory receipt of goods and services must be certified as prescribed in the administrative regulations governing processing of purchase orders and contracts.

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Section 3.04.130. Cooperative Purchasing

Without complying with other Sections of this Chapter, the Purchasing Officer may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement or any supplies, equipment, service or construction with one or more public procurement units, in accordance with an agreement entered into between the participants.

- A. Such cooperative purchasing may include, but not limited to joint or multiparty contracts between public procurement units, and
- B. Open-ended State public procurement contracts which are made available to the City.

Section 3.04.140. Emergency Purchases

The provisions of this Chapter may be waived when the following circumstances exist:

- A. During emergencies which have been declared by a unanimous vote of the City Council, or by order of the Governor or President, which emergency shall encompass the City and/or its services.
- B. An emergency determined by the City Manager and the Purchasing Officer if:
 - 1. There is a great public calamity; or
 - 2. There is immediate need to prepare for national or local defense; -or-
 - 3. There is a breakdown in machinery, equipment or essential service which requires immediate purchase of supplies and equipment to protect public health, welfare or safety; -or-
 - 4. An essential departmental operation affecting the public health, welfare or safety would be greatly hampered if the prescribed purchase would cause an undue delay in procurement of the needed item or service.
- C. A statement of the nature of the declared emergency shall be attached to each purchase order issued pursuant to the provisions of this Section.
- D. The Purchasing Officer is authorized to make emergency purchases for all supplies, equipment and services which cost \$10,000 or less, the City Manager is authorized to make such purchases which cost \$25,000 or less, but the city council shall authorize any such purchases in amount exceeding \$25,000.

Section 3.04.150. Local Preference

To promote the economic health of the City and to encourage local participation in the City procurement process, the City, in determining the lowest responsible bidder, may take into consideration the sales tax which would be returned to the City, as well as reduced delivery costs, service and any other savings features that are known of as a result of the award to a bidder who has an established place of business within the Lindsay City Limits.

Section 3.04.160. Central Stores

Selected commodities with recurring high usage rates may be stocked and issued from Central Stores under the direction and control of the Purchasing Officer.

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- 2
- 3 A. The Purchasing Officer shall examine usage rates for various commodities and, in
- 4 coordinating with using department, expend or reduce the quantities and types of
- 5 items in such Central Stores.
- 6 B. Central Stores items shall be replenished as needed from the Purchasing Revolving
- 7 Account through regular purchasing procedures.
- 8 C. Inventory levels of commodities on hand in Central Stores shall be determined by
- 9 the Purchasing Officer, based on economic and demand factors.
- 10 D. Detailed instructions for ordering and accounting methods for such Central Stores
- 11 shall be set forth in administrative regulations governing such operation.

12 Section 3.04.170. Purchase Orders

13 Purchase of supplies and equipment and the award of public works contacts shall be

14 made in accordance with prescribed administrative regulations governing the

15 preparation and issuance of purchase orders. Except as otherwise prescribed in this

16 Chapter, the administrative regulations the preparation and issuance of purchase

17 orders. Except as otherwise prescribed in this Chapter, the administrative regulations

18 governing purchasing and contracting shall establish responsibilities for the signing

19 and processing of purchase orders, and no exceptions may be made unless specifically

20 provided for in said regulations.

21 Section 3.04.180. Estimates of Requirements

22 All using departments or agencies shall file detailed estimates of their requirements

23 for supplies and equipment in such a manner, at such a time, and for such future periods

24 as the Purchasing Officer may request.

25 Section 3.04.190. Inventory and Status Reports

26 Each using department or agency shall submit at least annually to the Purchasing

27 Officer, or more often if required, in the form and manner he shall prescribe, reports

28 describing all supplies, equipment, materials, fixtures and other personal property of

the City in the custody of the department or agency which personal has become

obsolete or unserviceable.

- 29 A. Subject to the provisions of subsection E of this Section, the Purchasing Officer is
- 30 authorized from to sell or to exchange any and all such supplies or unserviceable
- 31 equipment, materials, fixtures and other personal property of the City, including
- 32 trade-in value if such property is to be replaced.
- 33 B. The purchasing Officer may sell for the best price obtainable on the open market or,
- 34 when he deems it advisable, to the highest bidder at public sale, or he may
- 35 exchange such surplus property for credit on other property.
- 36 C. In the event the Purchasing Officer determines that any such obsolete or surplus
- 37 property has no salvage value he may dispose of it as he deems advisable.
- 38 D. All sales of such surplus or obsolete personal property shall be for cash or certified
- 39 check or money order payable to the City.
- 40 E. The Purchasing Officer shall have authority to sign bills of sale and any other
- 41 papers or documents for and on behalf of the City evidencing transfer of title of the
- 42 property.

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- F. Prior to disposing of any obsolete or surplus personal property having an apparent market value in excess of \$25,000 the Purchasing Officer shall inform the City Council of the nature of the personal property proposed for disposition and the price offered and shall obtain the Council's approval for such disposition.

Section 3.04.200. Public Works by City Forces

The City Manager may determine which public works projects may be performed by City forces, or what portions of any public works project which is to be bid to be performed by City forces and thus excluded from such bid process.

- A. Such determination shall be made by the City Manager after consultation with the appropriate City department head, and shall take into consideration the skills and abilities, wage and benefit rates, and time availability of the specific City employees who would be involved in such specific public works project.

- B. Reasons for the decision made by the City Manager shall be filed with the bid documents should such project be performed in part by City forces, and in the construction files for the project should such public works project be performed in whole by City forces.

Section 3.04.210. Bid Wage Determination

Each public works project proposed to be put to sealed bid pursuant to the procedures set out in Section 3.04.090 of this Chapter shall have as apart of such bid call a statement by the City Manager as to the requirement for the payment of wage rates by bidders, any geographic coverage of such proposed wage rates, and any other appropriate guidelines and restrictions on the payment of wages by prospective contractors to their employees.

- A. Unless otherwise specified, all City Public Works, purchasing and acquisition contracts shall make no provision for payment of so-called prevailing wages, City bid documents to stipulate that whatever wages as may be necessary for the bidder to submit a reasonable bid may be utilized by the bidder.

- B. In such bids as the City shall, by grant contract, be obligated to require as a precedent to the retention of such grant contract, that California State Department of Labor-determined "prevailing wage" rates shall be utilized, or Federal Davis-Bacon Act wage rates shall be utilized, then, in that event, subsection A of this Section shall be suspended and not applicable.

- C. Insofar as is possible, bidders which agree to employ persons to work on specific project bids are being submitted, and such employed persons live within the City Limits of the City of Lindsay, then those bidders shall be provided preference in the award of bids by the City.

- D. Bidders who have their headquarters within the City Limits of the City of Lindsay, who pay a business license tax to the City, and who agree to employ persons resident within the City of Lindsay, shall be provided added preference in the award of public works contracts by the City, insofar as is possible.

SECTION 3.04.220. Contract Bulk Purchases

Purchase contracts to supply the City's needs may be entered into for up to three years for specified types and groupings of goods or services, provided that the procedures of this Chapter are complied with.

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Section 3.04.230. Electronic Purchase Procedure

Purchases may be made via electronic data transfer of data, provide the intent and substance of the requirements of this Chapter are met.

Section 3.04.240. Security for Public Works Projects. All contracts for the construction of a public works project in an estimated amount of \$75,000 or greater shall require the contacting party to furnish security for the completion of the project and the payment of labor, materials and equipment.

A. The provisions of Chapter 5 of Division 2 of Title 7 of the California government Code (Sections 66499 through 66499.10) as the same now reads or is hereafter amended shall govern the kind of security (G.C. Section 66499); the form of bond (G.C. Section 66499.1 and 66499.2); the amount of the security (G.C. Section 66499.3); the costs, expenses, and fees included in the amount of the security (G.C. Section 66499.4); the provisions for reduction of improvement security (G.C. Section 66499.5); exemption of security from enforcement of money judgment (G.C. Section 66499.6); release of security (G.C. Section 66499.7); restriction on release of security (G.C. Section 66499.8); limitation on security on security liability (G.C. Section 66499.9); and party against whom suit on security maintained (G.C. Section 66499.10).

B. Said Government Code provisions are incorporated are incorporated in this Section of this Chapter by reference, as if fully set forth herein.

Section 3.04.250. Changes in Procedures

Changes in the general method or policy of purchasing and contracting by the City and the operation of Central Stores, shall be made only by amending this Chapter.

Changes affecting only the details or forms used in the administration of these provisions concerning Purchasing Officer or City Manger as administrative revision to the pertinent procedural regulations.

Section 3.04.260. Definitions

Lowest Responsible Bidder means the lowest bidder whose offer best responds in quality, fitness and capacity to the requirements of the proposed work or usage, as specified.

In determining the lowest responsible bidder the following shall be considered, in addition to price:

- A. The quality of supplies offered;
- B. The ability, capacity and skill of the bidder to perform the contract or to provide the supplies or services required;
- C. Whether the bidder can perform the contract or provide the supplies or services promptly, or within the time specified, without delay or interference;
- D. The sufficiency of the bidder's financial resources and the effect thereof on his ability to perform the contract or to provide the supplies or service;
- E. The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

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2 F. The quality of the bidder's performance on previous orders or contracts for the City;

3 G. Litigation by the bidder on previous orders or contracts with the City;

4 H. Previous and existing compliance by the bidder with local laws and ordinances
5 relating to the subject of the purchase or contract;

6 I. The ability of the bidder to provide future maintenance and service where such
7 maintenance and service is essential.

8 ARTICLE V: All City Ordinances, resolutions or other actions are in force when this Ordinance
9 becomes effective are repealed to the extent that they are inconsistent with this
10 Ordinance.

11 ARTICLE VI: If any provision of this Ordinance is held to be invalid the other provisions of this
12 Ordinance shall not be affected thereby. If the application of this Ordinance or any of
13 its provisions to any person or circumstance is held invalid, the application of this
14 Ordinance and its provisions or circumstances shall not be affected thereby.

15 ARTICLE VIII: This Ordinance shall become effective thirty (30) days from and after its final passage
16 and adoption, after publication of a summary thereof, or in full text in the official City
17 newspaper.

18 THIS ORDINANCE WAS INTRODUCED and the title thereof read at the regular
19 meeting of the City Council of the City of Lindsay on the 3rd day of September, 1996; and

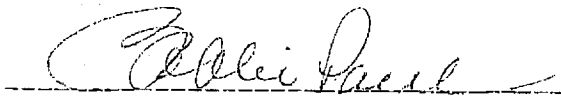
20 PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the
21 City of Lindsay called and held the 16th day of September, 1996.

22 For the
23 CITY COUNCIL OF THE CITY OF LINDSAY

24 

25 Valeriano Saucedo, Mayor

26 ATTEST:

27 

28 Bobbi Paul, City Clerk

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City of Lindsay

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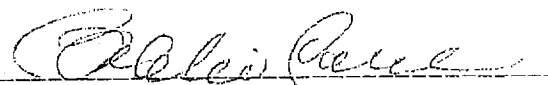
1 CITY OF LINDSAY)
2 COUNTY OF TULARE) CITY CLERK CERTIFICATION
3 STATE OF CALIFORNIA)

4 I, Bobbi Paul, City Clerk of the City of Lindsay, do hereby certify that the foregoing is
5 a full, true and correct copy of the original Ordinance No. 482, introduced by title only at a regular
6 meeting of the City Council of the City of Lindsay on the 3rd day of September, 1996; and adopted by
7 the City Council of the City of Lindsay at a regular meeting duly held on the 16th day of September,
8 1996, on motion of STAVA, second of HENDRICKS, by the following vote, as the same appears of
9 record and on file in my office:

10 AYES: HENDRICKS, HILL, RIOS, STAVA, SAUCEDO.
11 NOES: None.
12 ABSENT: None.
13 ABSTAIN: None.

14 WITNESS my hand and Corporate City Seal of the City of Lindsay this 17th day of
15 September, 1996.

OFFICE OF THE CITY CLERK OF LINDSAY


Bobbi Paul, City Clerk